

### REMARKS

This is in response to the Office Action dated October 18, 2007. Claims 21, 36-40, 43 and 44 are rejected. Claims 28, 41, 42, and 45-50 are withdrawn. Claims 21 and 39 are amended. Support for the amendments can be found on at least page 19, line 26 to page 20, line 10. New claims 51-53 are added. Support for the new claims can be found on at least page 19, line 10 to page 20, line 10. No new matter has been added. Reconsideration and allowance of the claims are requested.

Claims 39 and 40 were rejected under 35 U.S.C. §112, second paragraph, for failing to particularly point out and distinctly claim the subject matter. Claim 39 has been amended to clarify that the leaflets are pushed towards the grasper. Withdrawal of the rejection is requested.

Claims 21, 37, and 38 are rejected under 35 U.S.C. §102(b) as being anticipated by Wilk (5,395,367). The Examiner alleges that Wilk includes a catheter (32), gripper (35a), and a leaflet fastener applicator (36a or one of “staplers” and “suture applicators”). Applicant traverses the rejection.

An element of claim 1, as amended, is that the gripper has at least one grasper that moves angularly relative to the shaft, wherein the grasper frictionally secures at least one leaflet in a secure position between the grasper and the shaft. As the grasper moves and pivots angularly relative to the shaft, the leaflets are clasped between the grasper and the shaft. Positioning the leaflets along the length of the side of the shaft provides flexibility in grasping the leaflets since the leaflets can be frictionally secured at a plurality of positions, as long as the leaflets can be secured between the grasper and the shaft.

In contrast, Wilk uses a hook (35a) that moves axially relative to the shaft as an operative tip of instrument 35. Any material would be engaged at the end of instrument 35. Engagement of hook 35a with a material would need to be more precise since hook 35a only moves axially in and out of instrument 35, and does not have the advantage of moving angularly relatively to the shaft. Since Wilk has axial movement relative to the shaft, it does not meet the

claim limitation that at least one grasper moves angularly relative to the shaft. Further, a hook is not a gripper as claimed. A hook may grab or engage a material, but a hook does not frictionally secure a leaflet between the grasper and the shaft. Thus, Wilk does not meet all of the claim limitations. Withdrawal of the rejection of claims 21, 37 and 38 is requested.

Claims 36 and 43 are rejected under 35 U.S.C. §103(a) as being unpatentable over Wilk (5,395,367) in view of Harrison et al. (5,306,326). Claim 44 is rejected under 35 U.S.C. §103(a) as being unpatentable over Wilk in view of Harrison et al. as applied to claim 43 above, and further in view of Bolanos et al. (5,423,858). Applicant traverses the rejections.

Patent 5,306,326 was cited in combination with Wilk. However, Applicant believes that this is an incorrect patent number, since the inventor is not Harrison. Applicant assumes the Examiner meant Harrison to be US 5,403,326, and the discussion below is based on US 5,403,326.

As discussed above, Wilk does not meet the claim limitations that at least one grasper moves angularly relative to the shaft, or that the grasper secures a leaflet between the grasper and the shaft. Harrison and Bolanos do not supply these deficiencies. Withdrawal of the rejection of claims 36, 43, and 44 is requested.

Claims 39 and 40 are rejected under 35 U.S.C. §103(a) as being unpatentable over Wilk (5,395,367) in view of Hathaway et al. (5,304,184). Applicant traverses the rejections.

As discussed above, Wilk does not meet the claim limitations that at least one grasper moves angularly relative to the shaft, or that the grasper secures a leaflet between the grasper and the shaft. Hathaway does not supply these deficiencies. Withdrawal of the rejection of claims 39 and 40 is requested.

New claims 51-53 have been added which are believed to be allowable over the cited art.

For the foregoing reasons, Applicant respectfully submits that the present application is in allowable form. Reconsideration and allowance of the present application are respectfully requested. If a telephone conference would be helpful in resolving any issues

concerning this communication, please contact Applicant's attorney of record, Hallie A. Finucane, at 612-334-3222.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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